

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 56th Legislature (2017)

4 ENGROSSED SENATE
5 BILL NO. 411

By: Bice of the Senate

and

Mulready of the House

6
7
8
9 An Act relating to alcoholic beverages; amending
10 Sections 14, 143 and 148, Chapter 366, O.S.L. 2016
11 (37A O.S. Supp. 2016, Sections 2-102, 6-103 and 6-
12 108), which relate to sales of alcoholic beverages;
13 modifying hours during which such beverages may be
14 sold; updating statutory references; and providing an
15 effective date.

16 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

17 SECTION 1. AMENDATORY Section 14, Chapter 366, O.S.L.
18 2016 (37A O.S. Supp. 2016, Section 2-102), is amended to read as
19 follows:

20 Section 2-102. A. A brewer license shall authorize the holder
21 thereof:

22 1. To manufacture, bottle, package and store beer on the
23 licensed premises; and

24 2. To sell beer in this state to holders of beer distributor
 licenses and to sell beer out of this state to qualified persons.

1 B. A small brewer license shall authorize the holder thereof:

2 1. To manufacture, bottle, package and store beer produced by
3 the licensee on licensed premises;

4 2. To sell beer in this state to holders of beer distributor
5 licenses and retail licenses or to sell beer out of this state to
6 qualified persons;

7 3. To serve free samples of beer produced by the licensee to
8 visitors twenty-one (21) years of age or older;

9 4. To sell beer produced by the licensee for either on-premises
10 or off-premises consumption to consumers on the brewery premises, or
11 on premises located contiguous thereto; and

12 5. To sell beer at public events such as trade shows or
13 festivals.

14 C. Nothing in this act shall prohibit the holder of a small
15 brewer license from also holding or owning an interest in the holder
16 of a brewpub license.

17 D. For purposes of this section, no visitor may sample more
18 than a total of twelve (12) fluid ounces of beer per day. The
19 brewer must restrict the distribution and consumption of beer
20 samples to an area within the licensed premises designated by the
21 brewer. A current floor plan that includes the designated sampling
22 area must be on file with the ABLE Commission. No visitor under
23 twenty-one (21) years of age shall be permitted to enter this
24 designated sampling area when samples are being distributed or

1 consumed. Samples of beer served by a brewery under this section
2 shall not be considered a sale of beer within the meaning of Article
3 XXVIII A of the Oklahoma Constitution or Section ~~3~~ 1-103 of this ~~act~~
4 title; however, such samples of beer shall be considered beer
5 removed or withdrawn from the brewery for use or consumption within
6 the meaning of Section ~~113~~ 5-110 of this ~~act~~ title for excise tax
7 determination and reporting requirements~~7~~. Sales and sampling may
8 only occur between the hours of 10:00 a.m. and 2:00 a.m.

9 E. A small brewer self-distribution license shall authorize
10 holders of a small brewer license to distribute beer produced only
11 by such licensee to a holder of a retail beer license, retail
12 spirits license, mixed beverage license, beer and wine license,
13 caterer's license, special event license, public event license,
14 charitable auction license or brewpub license. A small brewer shall
15 elect whether it will distribute through a distributor or self-
16 distribute in a subject territory; however, a small brewer may not
17 elect to do both simultaneously in a subject territory. The
18 election shall be made through notice to the ABLE Commission. Any
19 changes to the election shall require immediate notification to the
20 ABLE Commission before the change in election will take effect. A
21 small brewer that elects to self-distribute in multiple territories
22 shall only be required to have one small brewer self-distribution
23 license.

SECTION 2. AMENDATORY Section 143, Chapter 366, O.S.L.
2016 (37A O.S. Supp. 2016, Section 6-103), is amended to read as
follows:

Section 6-103. A. No retail spirits licensee shall:

1. Purchase or receive any alcoholic beverage other than from a
wine and spirits wholesaler, beer distributor, winery or small
brewer self-distribution licensee who elects to self-distribute;

2. Suffer or permit any retail container to be opened, or any
alcoholic beverage to be consumed on the licensed premises, unless
otherwise permitted by law;

3. Sell any alcoholic beverages at any hour other than between
the hours of ~~10:00~~ 8:00 a.m. and midnight Monday through Saturday,
and shall not be permitted to be open on Thanksgiving Day or
Christmas Day. Retail spirits licensees shall be permitted to sell
alcoholic beverages on the day of any General, Primary, Runoff
Primary or Special Election whether on a national, state, county or
city election, provided that the election day does not occur on any
day on which such sales are otherwise prohibited by law;

4. Sell spirits in a city or town, unless such city or town has
a population in excess of two hundred (200) according to the latest
Federal Decennial Census;

5. Sell any alcoholic beverage on credit; provided, that
acceptance by a licensee of a cash or debit card or a nationally
recognized credit card in lieu of actual cash payment does not

1 constitute the extension of credit; provided, further, as used in
2 this section:

3 a. "cash or debit card" means any instrument or device
4 whether known as a debit card or by any other name,
5 issued with or without fee by an issuer for the use of
6 the cardholder in depositing, obtaining or
7 transferring funds from a consumer banking electronic
8 facility, and

9 b. "nationally recognized credit card" means any
10 instrument or device, whether known as a credit card,
11 credit plate, charge plate or by any other name,
12 issued with or without fee by an issuer for the use of
13 the cardholder in obtaining money, goods, services or
14 anything else of value on credit which is accepted by
15 over one hundred retail locations;

16 6. Offer or furnish any prize, premium, gift or similar
17 inducement to a consumer in connection with the sale of alcoholic
18 beverages, except that goods or merchandise included by the
19 manufacturer in packaging with alcoholic beverages or for packaging
20 with alcoholic beverages shall not be included in this prohibition,
21 but no wholesaler or retailer shall sell any alcoholic beverage
22 prepackaged with other goods or merchandise at a price which is
23 greater than the price at which the alcoholic beverage alone is
24 sold; or

1 7. Pay for alcoholic beverages by a check or draft which is
2 dishonored by the drawee when presented to such drawee for payment;
3 and the ABLE Commission may cancel or suspend the license of any
4 retailer who has given a check or draft, as maker or endorser, which
5 is so dishonored upon presentation.

6 B. No retail spirits licensee shall permit any person under
7 twenty-one (21) years of age to enter into or remain within or about
8 the licensed premises.

9 SECTION 3. AMENDATORY Section 148, Chapter 366, O.S.L.
10 2016 (37A O.S. Supp. 2016, Section 6-108), is amended to read as
11 follows:

12 Section 6-108. No holder of a Retail Wine License or a Retail
13 Beer License shall:

14 1. Purchase or receive any alcoholic beverage other than from a
15 wine and spirits wholesaler, beer distributor, winery or small
16 brewer self-distribution licensee;

17 2. Suffer or permit any retail container to be opened, or any
18 alcoholic beverage to be consumed on the licensed premises, unless
19 otherwise permitted by law;

20 3. Sell any beer or wine at any hour other than between the
21 hours of ~~7:00~~ 6:00 a.m. and 2:00 a.m. the following day, Monday
22 through Sunday. Retail wine and retail beer licensees shall be
23 permitted to sell beer and wine on the day of any General, Primary,
24

1 Runoff Primary or Special Election whether on a national, state,
2 county or city election;

3 4. Sell any beer and wine on credit; provided, that acceptance
4 by a grocery store, convenience store or drug store of a cash or
5 debit card, or a nationally recognized credit card, in lieu of
6 actual cash payment does not constitute the extension of credit;
7 provided, further, as used in this section:

8 a. "cash or debit card" means any instrument or device
9 whether known as a debit card or by any other name,
10 issued with or without fee by an issuer for the use of
11 the cardholder in depositing, obtaining or
12 transferring funds from a consumer banking electronic
13 facility, and

14 b. "nationally recognized credit card" means any
15 instrument or device, whether known as a credit card,
16 credit plate, charge plate or by any other name,
17 issued with or without fee by an issuer for the use of
18 the cardholder in obtaining money, goods, services or
19 anything else of value on credit which is accepted by
20 over one hundred retail locations;

21 5. Offer or furnish any prize, premium, gift or similar
22 inducement to a consumer in connection with the sale of beer or
23 wine, except that goods or merchandise included by the manufacturer
24 in packaging with beer or wine or for packaging with beer or wine

1 shall not be included in this prohibition; but no retail wine or
2 retail beer licensee shall sell any beer or wine prepackaged with
3 other goods or merchandise at a price which is greater than the
4 price at which the alcoholic beverage alone is sold; or

5 6. Pay for beer or wine by a check or draft which is dishonored
6 by the drawee when presented to such drawee for payment; and the
7 ABLE Commission may cancel or suspend the license of any retailer
8 who has given a check or draft, as maker or endorser, which is so
9 dishonored upon presentation.

10 SECTION 4. This act shall become effective October 1, 2018.
11

12 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM,
13 dated 04/05/2017 - DO PASS.
14
15
16
17
18
19
20
21
22
23
24